

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN STANDARD

PURPOSE

The purpose of this Standard is to provide direction and guidance regarding the placement, and/or supervision of children placed across state lines for foster care or adoption through the Interstate Compact on the Placement of Children (ICPC).

INTRODUCTION

The current ICPC has been enacted by all states, the District of Columbia, and the U.S. Virgin Islands. It establishes procedures to ensure that children placed across state lines for foster care or adoption are placed with persons who are safe, suitable, and able to provide proper care. It also establishes legal and financial responsibility for supervision and the provision of services for the child.

In order to protect all parties involved in an interstate placement, the ICPC:

- Provides the sending agency the opportunity to obtain home studies and an evaluation of the proposed placement.
- Allows the prospective receiving state to ensure that the placement is not “contrary to the interests of the child” and that its applicable laws and policies have been followed before it approves the placement.
- Guarantees the child legal and financial protection by assigning financial responsibility for the ongoing support and services of a child with the sending agency or individual.
- Ensures that the sending agency does not lose jurisdiction once the child moves to the receiving state.
- Provides the sending agency the opportunity to obtain supervision and regular reports on the child’s adjustment and progress in the placement.
- Places no restrictions on the ability of the State to contract with a private agency to conduct the home studies.
- Allows interstate placements to be considered in reasonable efforts to place a child(ren) in a timely manner in accordance with the permanency plan.

The ICPC process entails a complete home study conducted by the receiving state. All foster, relative, parent and adoptive home studies shall include the proposed placement family’s:

- Social and medical histories;
- Backgrounds;
- Parenting and discipline styles;
- Employment and financial histories;
- Physical evaluation of their home;
- Criminal and child abuse background history;

- Personal and professional references;
- Foster or adoptive parent training, if applicable; and
- Social Worker recommendations.

Once the placement is determined to be “not contrary to the welfare of the child” and the child is placed, the receiving state is responsible for ongoing supervision of the placement and for providing support services to the family and regular reports to the sending state agency as agreed to at the time of placement authorization.

The ICPC law contains ten (10) articles that define the types of placements subject to the law; the procedures to be followed in making an interstate placement; and the specific protections, services, and requirements brought by enactment of the law.

The provisions of the ICPC law, as well as the requirements of the “Safe and Timely Interstate Placement of Foster Children Act of 2006” are addressed in this Standard.

DEFINITIONS

The ICPC Articles make the following definitions:

Exempt Relative: Those relative placements specifically enumerated by Article VIII – parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt or legal guardian - as being exempt from compliance with the ICPC in certain circumstances. When an individual of the exempt class is the person/agency sending the child as well as the placement recipient, the placement is not subject to compliance with the ICPC. In order for a legal guardian to qualify as an “exempt relative” the guardianship must have existed prior to the *plans* for placement. Appointment of the proposed caretaker (relative, foster or adoptive) as the child’s legal guardian, at the time the placement is proposed, *does not avoid* the requirement to comply with the ICPC.

Regulation 1: A promulgated regulation which provides guidance to those cases where the intrastate placement converts to an interstate placement. A placement, initially intrastate, becomes an interstate placement subject to the ICPC when the child’s *current* resource family moves to another state.

Regulation 7: A regulation which applies when a court determines, *through court order*, that a placement is a priority placement because:

- The proposed placement resource is a parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or guardian; *and*
 - The child is under two years of age; *or*
 - The child is in an emergency placement; *or*
 - The court finds the child has spent substantial time in the home of the proposed placement resource.
- The receiving state has had a completed 100A (Request for Placement) with supporting documentation for over 30 business days, but the sending agency has not received a decision determining whether or not the child may be placed.

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Regulation 7 excludes placements that are requesting foster care licensure and/or adoption or when the child is in the receiving state in violation of the ICPC. Regulation 7 requires the receiving state/agency to complete the assessment **and** make a placement determination within twenty (20) **business** days.

STANDARDS

The following case situations **are** subject to the ICPC:

- Birth parent reunification in another state whenever a court has jurisdiction over the child who is being placed.*
- Relative care by a relative in another state whenever a court has jurisdiction over the child who is being placed. **
- Foster family care or group home care in another state when the placement duration is more than 30 days.
- Placement in a residential treatment facility in another state by a parent, agency, or court.
- Placements preliminary to domestic adoption between states by a public agency, private licensed child-placing agency, or by an independent/private attorney, parent, or intermediary.
- International adoptions when the child is placed in one state with an agency and subsequently is placed in a second state for the purpose of adoption.

*When the court has jurisdiction of the child to be placed, the court **may not** grant custody of the child to an out-of-state relative without ICPC compliance.

**Only under specific circumstances may the court transfer the child to a non-custodial parent without ICPC compliance (See Regulation No. 3.6(b)).

Under certain situations, placement of a child across state lines **is not** subject to the ICPC. These situations are:

- Birth parent to birth parent placements, when no court has assumed jurisdiction of the child to be placed.
- Birth parent to certain exempt relative placements or guardians (refer to definition), when no court has assumed jurisdiction of the child to be placed.
- Exempt relative to birth parent or to other exempt relative, when no court has assumed jurisdiction of the child to be placed.*
- A child who is admitted for acute care to any hospital or other medical facility when the facility is not licensed for residential care in substitution for parental care or foster care.
- Visits (Refer to definition of Visit on page 10).
- Placement of a child into or out of Canada, Puerto Rico, Guam, or American Samoa.

- International adoptions when the child is placed from the foreign country directly into the adoptive family's state of residence when Immigration and Naturalization has issued an IR-3 visa for the child being adopted.
- Idaho's legal status of protective supervision is not sufficient to request services through the ICPC. It does not provide sufficient legal jurisdiction to invoke the ICPC as such jurisdiction must include the power to cause the return or transfer of the child as well as the financial responsibility for support and maintenance of the child.

* In order for a legal guardian to qualify as an "exempt relative" the guardianship must have existed prior to the *plans* for placement. Appointment of the proposed caretaker (relative, foster or adoptive) as the child's legal guardian, at the time the placement is proposed, ***does not avoid*** the requirement to comply with the ICPC.

PROCESSING REFERRALS FOR INTERSTATE PLACEMENTS

When an interstate placement is being considered, the ICPC requires that the sending agency submit a "written notice" of the proposed placement. This "notice" is submitted to the sending state Compact Administrator, first, who then forwards it to the prospective receiving state's Compact Administrator.

The "notice" must consist of:

- ICPC-100A, "Interstate Compact Placement Request" Form for each child and for each type of placement (i.e., foster care and adoption);
- Custody and/or Termination of Parental Rights Order, which shows the sending agency, has sufficient jurisdiction to be legally and financially responsible for the child;
- Current Service/Alternate Care Case Plan
- Medical and Financial Plan for the child if placed with the proposed placement. This plan must include the child's current IV-E eligibility status and eligibility status if placed in the receiving state; and
- Medical, educational, mental health, and/or developmental records.

In cases where a placement initially intrastate in nature becomes an interstate placement subject to the ICPC (Refer to "Regulation 1" definition), the "written notice" must be made immediately. In addition to the items listed above the "notice" must include:

- A copy of the most recent license, certificate or approval of the qualifications of the placement resource,
- A copy of the most recent home study of the placement resource and any updates,
- Evidence that the placement resource has completed required training in the sending state, and
- A request that the receiving state provide prompt handling of the request with regard for the desired time for the child to be sent or brought to the receiving state.

In every case the “written notice” must contain five (5) copies of the ICPC-100A and three (3) copies of all other records.

Upon receiving “written notice” of the proposed placement, the receiving state’s Compact Administrator will forward the documents to the appropriate agency in the receiving state. As the receiving state, the Idaho ICPC Administrator will forward the documents to the regional field office ICPC Liaison. If the region contracts with a private agency to conduct the home study, the field office will forward the “written notice” to the contractor.

After the local agency has completed the requested assessment, it prepares a home study (directly or by contract) that includes a recommendation on whether or not the placement should be made. This information is returned to the Compact Administrator in the receiving state for review. If the local agency’s recommendation is positive **and** the Compact Administrator determines that all requirements of the receiving state’s laws have been met, and the placement is not contrary to the best interests of the child, the placement will be approved. If the local agency recommends against the placement **and/or** the Compact Administrator determines that the placement cannot legally be made, or is contrary to the best interests of the child, the placement will be denied. In either case, the Compact Administrator notifies the sending state’s Compact Administrator and forwards copies of the assessment and placement decision for the sending agency.

TIME FRAMES TO PROCESS ICPC REQUESTS

The Safe and Timely Interstate Placement of Foster Children Act of 2006 (P.L. 109-239) requires states, in the cases of foster care, relative, and adoptive home studies, to:

- Evaluate the home environment in accordance with applicable requirements of the state in which the home is located (i.e., receiving state); and
- Conduct, complete and report the results of the home study within sixty (60) calendar days after the ICPC Administrator receives the request. This time frame does not require the receiving state to have completed the parts of the home study that involve education and training for prospective foster, relative, or adoptive parents.

In Idaho, the sixty (60) calendar days to conduct and complete a home study will begin upon the “start date” on the “presenting issue” and “service request screens” in FOCUS. The “start date” will be entered by the ICPC Compact Administrator and will be defined as the date Central Office receives a complete packet from the sending state. The FOCUS “response date” entered, by the ICPC Compact Administrator, on the home study presenting issue will be defined as the date the ICPC Compact Administrator processes the request and confirms the request with the sending State.

Within three (3) calendar days of the receipt of the complete written notice or home study request, the Idaho ICPC Compact Administrator will forward the request to the regional field office ICPC Liaison.

Until September 30, 2008, P.L. 109-239 provides an additional fifteen (15) calendar days to complete and report the results for a home study if the home study cannot be completed within sixty (60) calendar days due to circumstances beyond the social worker's or agency's control. Examples of circumstances include:

- Delays in receipt of federal agency background checks, and/or
- Absence of the prospective caregivers for a specified period of time, and/or
- Missing documentation from the sending state.

A state's volume of work or lack of resources is not a "reason" which would qualify for the fifteen (15) calendar day extension provided through P.L. 109-239.

The fifteen (15) calendar day extension will be provided if the regional social worker provides, to the receiving state's Compact Administrator, the following within the sixty (60) calendar day time frame:

- Documentation of the circumstances beyond the state's control, and
- Certification that any missing documentation was requested of the sending state within fifteen (15) calendar days after receiving the "written notification" or request.

In situations where the sending state does not comply with the request for missing documentation within the sixty (60) calendar or seventy-five (75) calendar day period and the missing documentation is such that the social worker is unable to ascertain whether the home environment meets the individual needs of the child; or in situations where the social worker determines completion of the home study is not in the best interest of the child, the placement request should, within the required time period, be denied.

In order to meet the required sixty (60) or seventy-five (75) calendar day time frames, the following process is recommended:

ICPC Compact Administrator

1. The compact administrator receives written notification from sending state. The compact administrator will request any additional missing documentation at time of review.
2. Within three (3) business days after receipt of the complete home study request, the compact administrator will enter the service request in FOCUS using the "Presenting Issues Start Date." The due date of the study shall be indicated on the ICPC transmittal sheet sent to all parties.
3. The compact administrator shall mail the ICPC written notification to the regional CFS office using any method which will insure next business day delivery.

Regional Supervisor

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1. The regional supervisor shall assign the ICPC home study request for completion within two (2) business days of receipt.
2. Within the two (2) business days of receipt, the regional supervisor shall request any additional missing documentation, if any.

Social Worker

1. The assigned social worker shall make reasonable efforts to contact the proposed caregiver to set an appointment for the home visit and to provide instructions regarding the criminal history process upon assignment of the home study. If the initial contact was written contact, the social worker shall follow this contact with a telephone call to schedule the home visit or prior to denying the interstate compact request.
2. During initial contact with the proposed caregiver, whether written or verbal, the social worker shall provide:
 - Instructions regarding the criminal history process;
 - A request to complete the fingerprint process within a two (2) week calendar time period;
 - A statement that the request for placement will be denied if the fingerprints are not completed within the time period or other arrangements are not agreed upon; and
 - Directions in contacting the social worker.
3. The social worker shall monitor the criminal history process during the two (2) calendar week time period.
4. After completion of the home study, the social worker shall mail the home study and recommendations, in triplicate, within fifty-five (55) calendar days of the Date of Receipt or seventy (70) days if an extension has been granted. The home study shall be sent by any method which will insure delivery to Central Office within the fifty-five (55) or seventy (70) calendar day time period.

Compact Administrator

1. The Compact Administrator shall make a determination of placement and notify the sending state no later than the required sixty (60) or seventy-five (75) calendar day time period.
2. The Compact Administrator shall send notification by any method which will insure receipt of the notification by the due date.

Other recommendations to insure a timely process include:

- Use of overnight mail, (i.e., Federal Express, UPS, etc.);
- Have the family immediately initiate the Criminal History Unit Check and begin gathering other information for the home study prior to receiving the criminal history results;
- Use of a licensing variance (refer to *Resource and Family Licensing for Relatives and Non-Relatives Standard*) to expedite the foster care placement of a child from

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another state into Idaho. Use of a licensing variance is appropriate as long as there are no safety concerns and the variance pertains to non-safety rules and training. Examples of non-safety foster care standards which may be considered for a variance include, but are not limited to, training requirements and bedroom or sleeping arrangements. However, according to the *Resource Family Licensing for Relatives and Non-Relatives Standard*, an ICPC assessment requires the Standard IDHW Criminal History Background Check for all adults (eighteen [18] years or older) living in the home;

- Use of contracts with private agencies to conduct home studies when doing so is necessary to meet the time frames; and/or
- Conduct, complete and return to the other state a preliminary report. This report need not include a recommendation for placement but must address “the extent to which placement in the home would meet the needs of the child”. The preliminary report must also include the condition(s) which must be met in order to provide a recommendation of placement approval. Examples of conditions to placement may include, but are not limited to:
 - Satisfactory completion of criminal history checks; or
 - Receipt of favorable medical reports or personal references.

If the preliminary home study is submitted then an addendum to the report must also be submitted once the study is fully complete. The addendum should also include a recommendation for or against placement if one was not provided in the preliminary report. Once a recommendation for placement is made the authorization remains valid for a six (6) month period.

As an incentive to complete timely foster and adoptive interstate home studies, P.L. 109-239 allows the US Department of Health and Human Services to award to a state an incentive payment of up to \$1500.00 for each interstate foster or adoptive home study completed, whether the placement is approved or denied, within thirty (30) calendar days of the request. This incentive program is available up to October 1, 2010 and applies to home studies completed for both IV-E or non-IV-E eligible children. It is important to note, that although the incentive program is allowed, the federal incentive funding for home studies completed within thirty (30) calendar days has not yet been appropriated. However, foster and adoptive home studies completed after the sixty (60) or seventy-five (75) (if applicable) calendar days could lead to a Program Improvement Plan and/or financial penalty through the Department of Health and Human Services.

P.L. 109-239 provides the sending state with fourteen (14) calendar days to accept or reject the home study received from another state. Upon receipt of a requested home study the social worker, who requested the study, will, within fourteen (14) calendar days:

- Accept the home study, or
- Notify the Idaho ICPC Compact Administrator if the social worker determines that reliance on the report would be contrary to the child’s welfare.

P.L. 109-239 does not obligate the social worker who made the home study request to make the placement decision within fourteen (14) calendar days. Child placement decisions, including whether or when to place a child out-of-state are always state agency decisions.

CHILD PLACEMENT

Placement of a child may be made once the Compact Administrator in the receiving state notifies the Compact Administrator in the sending state, in writing, that the proposed placement does not appear to be contrary to the interests of the child. Placement authorization is valid for six (6) months. If placement does not occur within six (6) months of the receiving state's placement authorization, a new "written notice"/request must be made.

Once placement is made, the sending agency notifies the receiving state of the placement by using the ICPC – 100B, "Interstate Compact Report: Child Placement Status" Form. Submission of the ICPC – 100B opens the case for supervision in the receiving state.

In cases where a placement initially intrastate in nature becomes an interstate placement subject to the ICPC (Refer to Regulation 1 definition), within thirty (30) days of being notified by the sending state, or by the placement resource, that the child has arrived in the receiving state, the supervising social worker in the receiving state shall make initial contact with the placement resource to begin supervision of the placement. If it is subsequently determined that the placement in the receiving state appears to be contrary to the interests of the child, the continued placement will be denied and the sending agency, who remains financially and legally responsible for the child, shall arrange to return the child or make an alternative placement.

According to Idaho's Resource Family Licensing for Relatives and Non-Relatives Standard, Idaho's standard of practice when Idaho is the sending state, is to require full licensure of relative caregivers when children are placed, either intrastate or interstate, with relative caregivers. There are interstate situations, however, where the initial "notice"/request to the receiving state may be for a relative home study only, rather than for full licensure. Those situations may include:

- A court order Regulation 7 Priority Placement; and
- When delaying a child's placement would be harmful to the child's well being.

If the initial study requested is a relative home study, a criminal history process must be a part of this study before placement may occur.

Following the completion of the relative home study, placement authorization as a relative placement, and the initial interstate placement of the child with the unlicensed relative, a subsequent ICPC "written notice" requesting full licensure and placement

authorization as a relative foster care placement must be submitted by the child's social worker.

No foster care costs can be made using Title IV-E or IV-B funds when a child is placed with unlicensed relative caregivers. Once the relative caregiver is subsequently fully licensed, a copy of the out-of-state license must be submitted to the Resource Development Unit (RDU) for a re-determination of the child's IV-E eligibility. In those cases where the receiving state provides "certification" for relative caregivers as an alternative to licensure, written verification from the receiving state indicating there "certification" meets IV-E eligibility criteria for reimbursement, must be obtained and submitted to the RDU. ***IV-E may only be used if RDU has received a copy of the family's current license for foster care or written verification from the receiving state that indicates the family's "certification" meets IV-E Eligibility criteria in their state.***

In general, when making a foster care payment to a caregiver in another state, Idaho's rates are paid. Another state's rates may be paid only with prior approval given by the Regional Program Manager. Reasons for any exception must be documented in FOCUS.

It is important to emphasize that in situations where a child is placed by Idaho with an adoptive family in another state, it is Idaho that would look to its own established foster care rate structure to determine the dollar amount available for adoption assistance. Special allowances made on behalf of an individual child, while placed as a foster care placement, that are over and above Idaho's foster care payment rates, ***cannot*** be included in the amount negotiated in the adoption assistance agreement once the placement becomes an adoptive placement since the adoption assistance payment cannot exceed Idaho's published foster care maintenance payment rate for the child. Thus, if a special allowance is made to pay the receiving state's foster care rate for a placement that is intended to become an adoptive placement, the placement resource should be made aware, at the time the special allowance is made, that the special allowance, ***may not*** be used as part of the adoption assistance negotiation.

A child's interstate "visit" is not subject to the ICPC. A "visit" is distinguished from a "placement" as follows:

- Purpose. The purpose of a visit is to provide the child with a social or cultural experience of short duration.
- Duration. ***A visit may not be extended to exceed thirty (30) days or the school vacation period.*** A visit must have a planned ending date within thirty (30) days or within the school vacation period.
- Intent. If an ICPC request for placement of the child is pending with the receiving state, the intent of the child's stay in that receiving state will be presumed to be a "placement", made in violation, rather than a "visit".

RESPONSIBILITIES OF THE SENDING AND RECEIVING AGENCY

The sending agency is responsible for the ongoing support and services of a child placed in another state. The receiving state is responsible for the cost of the assessment and home study of a proposed placement and ongoing supervision of a child placed by the other state's public agency. However, the sending state may choose to enter into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

The receiving state may charge for assessments and supervision provided for placements prior to an adoption made by a *private* child placing agency or, as in almost all cases, refers these requests to a licensed private agency for completion.

Frequency of Contact with Children Placed through the ICPC

According to the Safe and Timely Interstate Placement of Foster Children Act, children who are in out-of-state placements through interstate compact shall be visited face-to-face no less frequently than every six (6) months, by a representative of the state in which the child is placed, or by a private agency contracted by either the receiving or sending state. When sending a child to another state, Idaho will request the state in which the child is to be placed to see the child on a monthly basis. If the policy of the state in which the child is placed does not require or allow for a minimum of monthly face-to-face contact, the responsible party in Idaho shall contact the child and the child's caregiver each month, by telephone, to confirm the child's safety and well-being. Likewise, social workers in Idaho will see children assigned to them, placed in Idaho from another state, monthly as defined in the standard related to contact between social workers, the child, and alternate care providers.

Closure of ICPC Cases

The ICPC requires that the receiving state provide supervision of the placement until the sending state no longer has jurisdiction or custody of the child and requests closure. The level of jurisdiction or custody that must be maintained is defined as "sufficient to include the power to effect or cause the return or transfer of the child and financial responsibility for support and maintenance." This jurisdiction or custody must be retained by the sending state until:

- The child is adopted,
- The child reaches the age of majority, or
- The child's custody is vacated by a court *with the concurrence* of the receiving state's supervising agency *and* ICPC Compact Administrator. This requires a written statement of concurrence from the receiving state.

The child's social worker should not recommend vacating custody without obtaining written concurrence from the receiving state first. Failure to do so is considered a violation of the compact.

Any variance to this Standard will be documented and approved by Division Administration, unless otherwise noted.

REFERENCES

Resource Family Licensing for Relatives and Non-Relatives Standard.
Implementation Considerations for the Safe and Timely Interstate Placement of Foster Children Act of 2006 (P.L. 109-239), American Public Human Services Association.
Guide to the Interstate Compact on the Placement of Children, 2002.